

REMARKS

Claims 1-13 are pending in this application. By this Amendment, claims 1-10 are amended, and claim 13 is added. The amendments and added claim introduce no new matter because they are supported by at least the claims as previously filed, and paragraph [0019] of the specification as originally filed. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 1, rejects claims 1-3, 7 and 10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,771,240 B2 to Inoue et al. (incorrectly identified in the Office Action as U.S. Patent No. 6,771,249 B2, hereinafter "Inoue") in view of U.S. Patent No. 5,867,140 to Rader; in paragraph 2, rejects claims 4-6 and 8 under 35 U.S.C. §103(a) as being unpatentable over Inoue and Rader and further in view of U.S. Patent No. 6,236,380 B1 to Wani et al. (hereinafter "Wani"); and in paragraph 3, rejects claim 9 under 25 U.S.C. §103(a) as being unpatentable over Inoue, Wani and Rader as applied to claim 1 and further in view of U.S. Patent No. 5,805,121 to Burgan et al. (hereinafter "Burgan"). These rejections are respectfully traversed.

Inoue was filed on December 15, 2000, and the earliest prior publication date of Inoue is September 12, 2002. The instant application was filed on February 27, 2002. As such, Inoue would be available only as a reference under 35 U.S.C. §102(e) and not under §§102(a) or (b). Under the provisions of 35 U.S.C. §103(c), Inoue is disqualified as prior art because the instant application and Inoue were, at the time the invention of this application was made, either owned by or under an obligation of assignment to Seiko Epson Corporation. In accordance with MPEP 706.02(1)(2)II, the foregoing and the following statement are sufficient evidence to disqualify Inoue from being used in a rejection under 35 U.S.C. §103(a) against the claims of this application. Because Inoue qualifies as prior art only under 35 U.S.C. §102(e), Inoue shall not preclude patentability of the subject matter of this application

because Inoue and this application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over the varyingly-enumerated combinations of the applied references are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-13 are earnestly solicited.

Should the Examiner believe that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



James A. Oliff

Registration No. 27,075

Daniel A. Tanner, III

Registration No. 54,734

JAO:DAT/cfr

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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